

# **DIVISION NEWSLETTER**

## **Commercial Vehicle Size and Weight**

### **Office of Freight Management and Operations- Issue #10**

**January 26, 2006**

*(In late 2002, the Size and Weight Team of the Office of Freight Operations, FHWA, began putting out, at irregular intervals, a Newsletter to inform Division employees assigned commercial vehicle size and weight responsibilities of current events affecting these activities. This newsletter continues that tradition. Earlier newsletters are available by contacting the HQ staff listed at the end of this edition.*

### **Non-Divisibility: Specialized Vehicle Configurations and Loads – a Necessary Reevaluation of the Federal Provision**

A review of a petition for a Federal rulemaking, filed by the manufactured housing industry in the middle of 2005, alerted us here in HQ to a possible incorrect interpretation of the Federal vehicle length requirements relating to vehicle non-divisibility. At the time we understood that a tractor-semitrailer carrying an over-length load composed of *two or more* containers/boxes/housing units would not be allowed under Federal requirements to operate on the National Network as a non-divisible unit, even with a permit. This load was obviously divisible.

As explained herein, this understanding is not supported by Federal law.

The petition was received in May 2005 from Mr. Chris Stinebert, President of the Manufactured Housing Institute (MHI). The MHI proposed two actions to the FHWA:

- (1) Amend FHWA's definitions of commercial motor vehicles [reference 23 CFR 658.5] by adding one for "modular transporters" (vehicles exclusively designed for, and carrying only, modular home parts); and
- (2) Expand the existing definition of "non-divisible load or vehicle" to add "factory-built modular homes and/or their components when transported by a modular transporters, as defined in this section, as non-divisible vehicles or load."

According to the petition received from the MHI, two or more modular sections are normally transported on specially designed modular transporters pulling a semitrailer chassis of up to 72 feet in length. Modular units placed on the chassis range from 44 to 68 feet in length and 13 to 16 feet in width. Average transport distances are said to be roughly 240 miles, with an empty return made by the vehicle.

To repeat, our initial reaction was that this type of vehicle or load could not possibly be deemed non-divisible, especially as the industry practice tends to place two separate, partially constructed housing packages on the same semitrailer. We reasonably assumed that these two pieces of load could be separately carried on two trailers in order to assure compliance with NN length requirements. While we agreed with MHI that both height and width are not subject to a Federal non-divisibility test, we felt that the Federal length requirements would still proscribe this proposed operation.

After research and study we discovered language contained in the preamble to the 1994 FHWA final rulemaking (Ref: 59 FR 30392,30405) that documented each State's regularly operating Longer Combination Vehicles (LCV's) as of June 1991.<sup>1</sup> (The State-by-State list is now incorporated as Appendix C of Part 658.) The rulemaking was required by the Intermodal Surface Transportation Assistance Act (ISTEA) enacted that year, which "froze" LCV weight and length.

The preamble language stated that:

As a practical matter, the FHWA definition of a non-divisible load will rarely be applied to cargo length because it does not cover straight trucks or single-trailer combinations. It covers only loads on vehicles . . . which have two or more cargo-carry units . . . . There are very few single loads that rest simultaneously on the bed of a straight truck and on a trailer, or on two or more trailers . . . . The definition will apply more often to loads, like entire buildings, that are moved on a series of dollies, each of which is a single cargo-carrying unit. [Emphasis added.]

Based on this language, we indicated to MHI that the type of vehicle for which it sought exclusion was not covered under the Federal definition of length non-divisibility found in 23 CFR Part 658, Section 658.5. We therefore denied the petition for rulemaking. We also advised the MHI that the operation of the movement described in its petition remained solely a matter for State DOT or permitting authority to regulate.

We reiterate this point to all of you, and ask that you make it clear to your States that the Federal non-divisibility provision found at 658.5 does not apply to the types of modular housing vehicles such as the MHI described to us in its petition.

Nevertheless, it still remains for States, under existing authority, to determine the appropriate length of over-length trailers and loads, and if cargo overhang will be allowed, in determining whether a permit should be authorized for such loads. One prior basis for denial of such permit requests, the Federal non-divisibility provision, would no longer apply.

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<sup>1</sup> Please refer to Newsletter # 2, December 20, 2002, for a discussion of what constitutes an LCV.

## **ACCESS TO INTERPRETATIONS OF S&W REGULATIONS**

The Size and Weight web page has been modified to provide a question-and-answer format on the most commonly asked questions relating to the topic of vehicle enforcement. You may access topic by either subject or regulatory number. The initial offering of interpretations will be expanded to eventually include a greater collection of interpretations that have been requested by you over the years. On the website (located at the end of this newsletter), look for the colored entry, " Questions and Answers about Vehicle Size and Weight", and click on it for a review of the current file.

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*Please call the TS&W team at anytime with your questions or comments:*

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### **WEBSITE:**

[www.OPS.FHWA.DOT.GOV/Freight/size\\_weight.htm](http://www.OPS.FHWA.DOT.GOV/Freight/size_weight.htm)